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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,317	06/19/2006	Bodo W. Lambertz	DD-26009	5864
2387 7590 09/30/2008 Olson & Cepuritis, LTD. 20 NORTH WACKER DRIVE 36TH FLOOR CHICAGO, IL 60606				
EXAMINER				
HOEY, ALISSA L				
ART UNIT		PAPER NUMBER		
3765				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,317

Applicant(s)

LAMBERTZ, BODO W.

Examiner

Alissa L. Hoey

Art Unit

3765

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This is in response to amendment received on 04/25/08. Claims 1, 4, 6, 7, 14 and 15 have been amended, claim 12 has been cancelled and claims 16-17 have been newly added. Claims 1-11 and 13-17 are finally rejected below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 11, 13, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Throneburg et al. (US 5,595,005).

1. (Currently Amended) A sock (30), especially for use in athletic activities, and to be worn in a shoe (50) having at least one pad (67) therein, said sock having padding (33, 34) in some areas, characterized in that the arrangement of pads (33, 34) in the sock is coordinated with the arrangement of the pad in the shoe (67), the pads comprise absorption pads (33, 34), with a web (35) there between, whereby the pad (67) of the shoe (50) cooperates with the web (35) and provides a continuous uniformly padded surface (see figures 1-17).

2. (Previously Presented) A sock according to Claim 1, characterized in that the pads (33, 34) in the area of the instep are formed by absorption pads (33, 34) between which a web (35) is provided (figures 1-17).

3. (Previously Presented) A sock according to Claim 2, characterized in that the absorption pads protrude beyond the web (see figure 1).

In regard to claim 11, Throneburg et al. teaches a sock (30), especially for use in athletic activities, and to be worn in a shoe (50) having at least one pad (see ankle pad in figure 10) therein, said sock having padding (32, 34) in some areas, characterized in that the arrangement of pads (32, 34) in the sock is coordinated with the arrangement of the pad pads in the shoe, the pads comprise absorption pads, with a web (37) there between, whereby the pad of the shoe cooperates with the web and provides a continuous uniformly padded surface (see figures 7-9). The pads are designed as a ring-shaped pad enclosing a surface in the area of the ankle (pads 32, 34 form ring shaped pad enclosing the ankle).

13. (Previously Presented) A sock according to of Claim 1, characterized in that the sock has an air channel (37).

15. (Currently Amended) A sock according to Claim 16, characterized in that the spacer pads (33, 34) protrude beyond the web (35) (figure 1).

16. - (New) A sock (30), especially for use in athletic activities, and to be worn in a shoe (50) having at least one pad (67) therein, said sock (30) having padding (33, 34) in some areas, characterized in that the arrangement of pads (33, 34) in the sock is coordinated with the arrangement of the pad in the shoe (figures 1-17), the pads comprise spacer pads, with a web there between, whereby said pad of the shoe cooperates with the web to avoid double padding and provide a uniform load distribution (figures 1-17).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Throneburg et al. in view of Lambertz (US 6286151).

Throneburg et al. teaches a sock garment as described above in claims 1-3. However, Throneburg et al. fails to teach the pads being made of hollow chamber fibers covered with spun wool or cotton.

In regard to claims 8 and 9, Lambertz teaches the pads are made of hollow chamber fibers covered with spun wool or cotton.

It would have been obvious to have provided the sock having pads of Throneburg et al. with the pads being made of hollow chamber fibers covered with spun wool or cotton of Lambertz, since the sock of Throneburg et al. provided with the hollow chamber fibers covered with spun wool or cotton pads would provide a sock with padding that is effective to dampen shock and pressure.

5. Claims 17, 14 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Throneburg et al. (5,595,005) in view of Throneburg et al. (US 5,307,522).

Throneburg et al. ('005) teaches a sock garment as described above in claims 15 and 16. However, Throneburg ('005) fails to teach pads in the area of the heel are formed by the spacer pads with a web being provided between them. Further, Throneburg ('005) fails to teach the pads also comprise absorption pads with a web there between, and the shoe has pads, at least one of which cooperates with the web and provides a continuous uniformly padded surface.

In regard to claim 4, Throneburg et al. ('522) teaches a sock characterized in that the pads in the area of the heel are formed by the spacer pads with a web being provided between them (P2, P3, 17 between pads P2, P3).

In regard to claim 5, Throneburg et al. ('522) teaches the spacer pads protruding beyond the web (see figure 1, identifiers P2, P3, 17).

In regard to claims 6 and 7, Throneburg et al. ('522) teaches the web (17) is made of a climate regulating woven fabric.

In regard to claim 14, Throneburg et al. ('005) the absorption pads (33, 34) protruding beyond the web (35).

In regard to claim 15, Throneburg et al. ('522) teaches the spacer pads (P2, P3) protrude beyond the web (17).

In regard to claim 17, Throneburg et al. ('522) the pads also comprise absorption pads (P2, P3) with a web (17) there between, and the shoe of ('005) has pads (see ankle pad in shoe), at least one of which cooperates with the web and provides a continuous uniformly padded surface (see shoe 50 of ('005) and sock with pads P2, P3 of ('522).

It would have been obvious to have provided the sock and shoe with pads of Throneburg et al. ('005) with the additional lower ankle and above ankle pads of Throneburg et al. ('522), since the sock and shoe with pads of Throneburg et al. provided with additional lower ankle and above ankle pads would provide a sock with better protection to the user's feet and comfort during use with footwear.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Throneburg et al. ('005) in view of Throneburg et al. ('522) as applied to claims 5, 4, 15 and 16 above, and further in view of Lambertz (US 6,286,151).

Throneburg et al. ('005) in view of Throneburg ('522) teach a sock garment as described above in claims 5, 4, 15 and 16. However, Throneburg et al. ('005) and Throneburg et al. ('522) fails to teach the pads being made of hollow chamber fibers covered with spun wool or cotton.

In regard to claim 10, Lambertz teaches the pads are made of hollow chamber fibers covered with spun wool or cotton.

It would have been obvious to have provided the sock and shoe having pads of Throneburg et al. ('005) and Throneburg et al. ('522) with the pads being made of hollow chamber fibers covered with spun wool or cotton of Lambertz, since the sock of Throneburg et al. ('005) and Thornburg et al. ('522) provided with hollow chamber fibers covered with spun wool or cotton pads would provide a sock with padding that is effective to dampen shock and pressure.

Response to Arguments

7. Applicant's arguments with respect to claims 1-11 and 13-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alissa L. Hoey/
Primary Examiner, Art Unit 3765